IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 11TH JUNE 2007 / 21ST JYAISHTA 1929

Crl.MC.No. 164 of 2007()

CC.1241/2006 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, THRISSUR

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PETITIONER: PETITIONERS/ACCUSED NOS.2 TO 4

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1. K.R.DEVADAS, AGED 40 YEARS,
   S/O.RGHAVAN, KARIPPARA HOUSE, CHAZHOOR,
   LINEMAN, K.S.E.B.

2. K.M.PRAKASHAN, AGED 46 YEARS,
   S/O.MANU, KUNDUKULAM, PADATHU HOUSE,
   MANAKKULANGARA, KODAKARA, SUB-ENGINEER,
   K.S.E.B.

3. P.SARADA DEVI,
   AGED 46 YEARS, W/O. NARAYANAN,
   KUMARANCHIRA VADAKKE MADHOM, NANDIPULAM,
   THRISSUR, ASSISTANT ENGINEER, K.S.E.B.

BY ADV. SRI.P.SANTHOSH (PODUVAL)
SRI.M.K.GIRISHMOHAN
SMT.R.RAJITHA

RESPONDENTS:

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1. STATE OF KERALA,
   REP.BY S.I. OF POLICE, CHERPU POLICE STATION,
   THROUGH THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

2. SUGATHAN, S/O.KRISHNANKUTTY,
   KALAPURAKKAL HOUSE, PERINJANAM DESOM
   VILLAGE, KODUNGALLUR TALUK, PERINJANAM P.O.
   (ADDL.R2 WAS IMPLEADED AS PER ORDER IN CRL.M.A.NO.342/07
   DATED 30.01.2007)

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB
SRI.C.HARIKUMAR
SRI.ARAVINDA KUMAR BABU T.K.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 11/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.164 of 2007

Dated this the 11th day of June 2007

O R D E R

The petitioners are accused 2 to 4 in a prosecution under Section 304A I.P.C. They, along with the first accused, face the allegations. The first accused is the proprietor of Rohini Cable Vision which gives cable network connection to domestic consumers. Petitioners 2 to 4 are the Lineman, Sub Engineer and Assistant Engineer, all employed by the Kerala State Electricity Board. The crux of the allegations is that a cable network connection was given to the house of deceased Radha, sister-in-law of the second respondent. On the unfortunate day, she got electrocuted when she was attempting to use the television with the cable network connection. The crime was registered initially under the caption 'unnatural death' and on receipt of Annexure D report from the Electrical Inspector, an allegation under Section 304A I.P.C was raised against the first accused only.

2. Long later, on 09/03/2006, a private complaint Annexure E was filed by the second respondent and the learned Magistrate referred the same to the police under Section 156(3) Cr.P.C. A separate crime is registered against accused 1 to 4 - evidently ignorant of the fact that an earlier crime was registered. Investigation was conducted. In the course of investigation both the crimes were consolidated and a common chargesheet was filed against accused 1 to 4. The crux of the contention it would appear is that the cable connection was given negligently and consequently the live electricity wire and the cable network connection wire got intertwined resulting inflow of electric current through the cable network line resulting in electric shock to the deceased and her eventual death.

3. The petitioners have come before this court with the grievance that they have been unnecessarily and unfairly arrayed as accused. It is their contention that they have been arrayed as accused only to facilitate a claim for compensation against the Kerala State Electricity Board. It is submitted that they have absolutely no responsibility for the unfortunate

occurrence that have taken place. No specific allegation is raised about the date on which the connection was given. But it is evident from the materials that connection was given long prior to the date of the occurrence proper. The learned counsel for the petitioners contends that even if it be assumed that there were some inadequacy in the connection given by the first accused and that the accident have taken place because of the intertwining of the live electricity wire and the cable network wire, the petitioners could not be mulcted with any culpable responsibility for that unfortunate consequence. The materials indicate that such connection was existing even earlier. There is nothing to show that the petitioners were aware of the intertwining of the two wires on the date in question. There is not even an allegation that they had the legal duty to examine such wires on all dates or immediately prior to the unfortunate occurrence. The petitioners were not aware of the alleged intertwining of the wires. At any rate, they have no legal obligation or duty to inspect the wires at every point of time. They having not been informed of such intertwining, lightly allegations of culpable negligence cannot be raised against them.

They cannot be held guilty of any culpable negligence resulting in the death of the deceased.

4. The learned counsel for the second respondent and the learned Public Prosecutor only submit that the Kerala State Electricity Board has the moral and legal responsibility to ensure that the connection is given only properly by the first accused and in not having ensured that petitioners 1 to 3, that is accused 2 to 4, must be held to be culpably negligent and liable to answer the charge under Section 304A I.P.C. I am unable to agree with the learned counsel for the respondent. In the facts and circumstances of this case, there is nothing tangible to show that the petitioners were guilty of any culpable negligence. Their knowledge of the intertwining of the wires is not allegedly indicated. There is nothing to indicate that they had the duty at every given point of time to inspect and ensure the safety of the arrangement. In fact, there is nothing to show that they have seen or known of the intertwining of the wires.

5. The first accused may be responsible. The Electricity Board may also be liable under civil law. May be the petitioners will also have to answer the allegation of civil negligence. But,

at any rate, the facts and circumstances alleged in this case, do not at all reveal or indicate any specific circumstance which can help the prosecution to make an allegation of culpable negligence on the part of petitioners 1 to 3 (accused 2 to 4) for the unfortunate death of the victim. I am satisfied, in these circumstances, that continuance of the prosecution against petitioners 2 to 4 would amount to needless harassment and vexation to the petitioners and consequently the prosecution in so far as it relates to them deserves to be quashed.

6. In the result, this Criminal Miscellaneous Case is allowed. C.C.No. 1241/06 pending before the Judicial First Class Magistrate Court-I, Thrissur, in so far as the petitioners/accused 2 to 4 are concerned is hereby quashed. I may hasten to observe at the risk of repetition that I have not chosen at all to make any observation on the liability of the Kerala State Electricity Board or the petitioners to compensate the legal heirs/dependents of the deceased for the loss suffered by them.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007